

## **ESSAY EXAMINATION INSTRUCTIONS**

Your answer should demonstrate your ability to analyze the facts in the question, to tell the difference between material facts and immaterial facts, and to discern the points of law and fact upon which the case turns. Your answer should show that you know and understand the pertinent principles and theories of law, their qualifications and limitations, and their relationships to each other.

Your answer should evidence your ability to apply the law to the given facts and to reason in a logical, lawyer-like manner from the premises you adopt to a sound conclusion. Do not merely show that you remember legal principles. Instead, try to demonstrate your proficiency in using and applying them.

If your answer contains only a statement of your conclusions, you will receive little credit. State fully the reasons that support your conclusions, and discuss all points thoroughly.

Your answer should be complete, but you should not volunteer information or discuss legal doctrines which are not pertinent to the solution of the problem.

You should answer the questions according to legal theories and principles of general application.

**CALIFORNIA FIRST-YEAR LAW STUDENTS' EXAMINATION**

**OCTOBER 2005**

**ESSAY SUBJECT COVERAGE**

The following table indicates the fields of law of the main problems in each question. However, the questions often contain points in other fields, too. The questions are not labeled in the examination itself.

<u>Question Number</u>	<u>Subject</u>
1.	Contracts
2.	Criminal Law
3.	Torts
4.	Contracts

The essay portion of the examination lasted four hours.

Essay questions are selected from three subjects: Contracts, Torts, and Criminal Law.

Instructions given at the essay sessions are printed on the front of the questions.

## Question 1

Ed is the owner of the newly opened Ed's Custom Car Wash, where car washes cost \$25. While he was grocery shopping in his home town, which is located 20 miles from Ed's Custom Car Wash, he was greeted by his friend Alice. After they chatted for a moment, Ed said, "Come by my new car wash and I'll give you a free car wash tomorrow." Alice replied, "Thanks. By the way, we've got a few extra tickets for the game tonight. If you want them, they're yours."

A few minutes later, Ed ran into police officer Brown, who worked in Ed's home town. Ed said, "Officer Brown, if you will drive by my house soon and make sure everything is OK, I'll give you a free car wash tomorrow." Officer Brown, who was about to begin his job of patrolling Ed's neighborhood, replied, "I accept your kind offer." Officer Brown then left the store and began his routine patrol, which, as always, promptly took him by Ed's house, where everything was in order.

When Ed returned home from shopping, he saw his next door neighbor, Charlie. Ed said, "Charlie, I'll give you a free car wash tomorrow at my new car wash." Charlie replied, "Thanks, I'll take you up on that."

As soon as Ed arrived at work the next day, he found a long line of cars at the car wash. He phoned Alice and Officer Brown, and told them that he would not give them free car washes. Then he saw Charlie, who had left work and driven for one-half hour to get to the car wash and was waiting in line. Ed immediately told Charlie, "I am not going to give you a free car wash."

Does Ed have an enforceable obligation to Alice, Officer Brown, or Charlie? Discuss.

## Question 2

Michael and his girlfriend Betty were going to an expensive nightclub. On their way to the club Betty asked Michael to stop by the store where she worked as a checker. Michael knew the store was closed but didn't question why she wanted to stop. When they arrived at the store they both got out of the car. Betty used her key to open the store's door. They both went in. Betty went to the cash register and took \$200, intending to return it before the store opened the next day. Michael saw her take the money. They then left the store.

When they got outside Michael asked Betty why she took the \$200 from the cash register. Betty told him that her employer owed her money and that she was taking it so that they could have fun that evening. Michael did not believe that Betty was entitled to take the money. Betty gave Michael the \$200 and he put it in his pocket.

In fact, Betty was not entitled to take money from the cash register and she did not return the \$200 the next day. The store's security system had filmed Betty's and Michael's actions and both Betty and Michael were arrested.

1. With what crime or crimes can Betty be reasonably charged and what defenses, if any, does Betty have available to her? Discuss.
2. With what crime or crimes can Michael be reasonably charged and what defenses, if any, does Michael have available to him? Discuss.

### Question 3

David drives a parcel delivery van. On Monday, while delivering packages in a residential neighborhood, David struck and badly damaged a parked car owned by Able. At the time of the collision, David was driving 30 mph. The posted speed limit for the street is 25 mph, but residents customarily drive at 30 mph.

On Tuesday, David left a package for Baker on the front step outside of her house. He placed the package just in front of the doorway, and when Baker walked out of her house later in the day, she tripped over the package, breaking her hip.

On Wednesday, while returning to his van following a delivery, David stopped to chat with Carl, who was sitting in his car and about to back out of his driveway. When they finished speaking, Carl began to back out of the driveway. At that moment, David saw a car speeding down the street towards Carl. David considered warning Carl of the approaching car, but since David was in a hurry, he decided not to go back and tell him. As Carl backed out of his driveway, he was struck by the speeding motorist and was seriously injured.

Able, Baker, and Carl have all filed lawsuits against David.

What is David's liability to each of them? Discuss.

## Question 4

GravelCo is a distributor of high quality gravel used on construction projects. In August, GravelCo found itself with more gravel than it could easily store. On August 15, GravelCo's sales director sent a fax on company stationery with GravelCo's logo at the top and the sales director's name printed just beneath it to Builder, GravelCo's biggest customer. The entire text of the fax stated, "Because of an oversupply, we are offering to sell up to 5000 tons of high-quality gravel at \$8 per ton, full payment due on delivery. We can guarantee this price for only thirty days."

On August 17, the purchasing agent for Builder faxed back a response stating, "We do not wish to order at \$8 per ton, but would consider a purchase at \$7 per ton."

On September 1, a railroad strike caused a gravel shortage and an immediate rise in the market price for gravel. On September 5, GravelCo entered into several contracts with major contractors to sell large quantities of gravel at \$11 a ton.

On September 7, GravelCo received an overnight letter from Builder signed by its purchasing agent. The letter stated, "We accept your offer for 5000 tons of gravel at \$8 per ton. Terms attached." Attached to the letter was Builder's standard purchase order form, one of the terms of which stated that payment would be made within 90 days after delivery of the purchased product.

In order to deliver 5000 tons of gravel to Builder, GravelCo would now be forced to purchase some of the gravel on the open market at over \$10 a ton.

1. Is GravelCo obligated to sell 5000 tons of gravel to Builder at \$8 per ton? Discuss.
2. If GravelCo is bound to sell the gravel to Builder, can Builder be required to make full payment upon delivery? Discuss.